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I

**Training Material and Regulations of New York City
Police Department on Stop and Frisk**

A

T.O.P. 202

**POLICE DEPARTMENT
CITY OF NEW YORK**

TO ALL COMMANDS: /

June 8, 1964

**Subject: INSTRUCTION OF ALL MEMBERS OF THE FORCE IN
THE PROVISIONS OF NEW LAWS DEALING WITH
"STOPPING AND FRISKING" AND "EXECUTING CER-
TAIN SEARCH WARRANTS."**

1. On July 1, 1964, two new laws, dealing with stopping persons upon reasonable suspicion of their having committed certain crimes, and with certain searches made under the authority of a search warrant, go into effect. Every member of the force is to receive instruction in the provisions of these laws prior to performing duty on July 1, 1964. This instruction will be given in accordance with the directions indicated below.

2. On Thursday, June 11, an explanation of these laws and the department policy in connection with their enforcement will be given at the Police Academy, room 400, from 9 a.m. to 12 Noon.

a. Each commanding officer listed below shall designate superior officers within his command as training officers, and direct them to attend this session at the Police Academy:

<i>Commanding Officer</i>	<i>Maximum Number</i>
Safety Division	8
Auxiliary Services Division	3
Youth Division	5
Planning Bureau	1
P.C.C.I.U.	1
C.I.I.U.	1
Narcotics Bureau	1
Central Office Bureaus and Squads	2
Emergency Service Division	5
Tactical Patrol Force	1
License Division	1

b. Each patrol precinct commander shall direct his Unit-Training Sergeant to attend this session.

3. Training for all members of the force shall be conducted as follows:

a. Unit-Training Sergeant shall conduct classes in their precincts from 4 p.m. to 4:30 p.m. for squads indicated:

<i>Date</i>	<i>Day of Week</i>	<i>Squad</i>
June 15	Monday	12, 13
June 16	Tuesday	14, 15
June 17	Wednesday	16, 17
June 18*	Thursday	18, 19
June 22	Monday	20, 1
June 23	Tuesday	2, 3
June 24	Wednesday	4, 5
June 25	Monday	6, 7
June 30	Tuesday	8, 9
July 1	Wednesday	10, 11

* On Thursday, June 18, the instruction will be from 4:30 p.m. to 5 p.m. instead of 4 p.m. to 4:30 p.m. This is done to avoid conflict with the Unit-Training television program.

b. Commanding officers of patrol boroughs and divisions shall direct members of their commands, including plainclothes patrolmen, to attend one of the training classes conducted by a Precinct Unit-Training Sergeant.

d. [sic] Commanding officers listed in paragraph 2a shall direct their training officers to give instruction of approximately 30 minutes duration on these new laws to all members of their commands. This instruction shall be scheduled in a manner to cause least interference with police service.

e. The Commanding Officer, Police Academy, shall direct that 30-minute training sessions on these new laws be given at the Police Academy on June 15, 22 and 29 at 9 a.m. and 1 p.m., for members of the Personnel Bureau and other units of the department not otherwise provided for in this order. Commanding officers of units concerned shall arrange for their members to attend one of these sessions.

4. Each commanding officer is responsible that each member of his command is instructed in the provisions of these new laws. Where members are being trained by other than members of their own commands, they shall be supplied with a Detail Roster, U.F. 30, in duplicate, to be presented to the training officer concerned. The training officer will initial the duplicate copy to verify the attendance of those listed; the duplicate will be returned to the command concerned, the original, retained.

5. Superior officers shall frequently test the knowledge of subordinates concerning these new laws. Appropriate instruction shall be given, as necessary, to assure full un-

derstanding of these laws and the department policy regarding their enforcement. Superior officers are responsible that these new procedures are carried out in strict conformity with department instructions.

By DIRECTION OF THE POLICE COMMISSIONER.

LAWRENCE J. McKEARNEY
Chief Inspector

Circular No. 25

INSTRUCTIONS TO MEMBERS OF THE FORCE
CONCERNING THE "STOP AND FRISK" (CHAPTER 86) AND
"NO KNOCK" (CHAPTER 85) LAWS

Two new statutes, with major impact on police authority, become effective in New York State on July 1, 1964.

These laws, if properly utilized, can be of considerable aid in safeguarding our communities. Their passage resulted in part from the combined strenuous efforts expended by New York State's various law enforcement agencies. As is the case with all other law enforcement powers, whether or not these sorely-needed enactments will withstand the attacks that will be made upon their constitutionality, and will stand as laws upon the books of this State, will depend in large measure upon the fashion in which they are carried out. They should be enforced with full recognition that their purposes are to protect the community, while simultaneously protecting and treating fairly all persons in it.

Every member of the force has the responsibility of seeing to it that the powers conferred by these new statutes are used to further those purposes for which they were enacted. Some guidelines for proper conduct pursuant to these statutes are set forth herein:

I THE "STOP-AND-FRISK" LAW (Chapter 86, Laws of 1964)

The new statute, which becomes §180-a of the Code of Criminal Procedure, provides as follows:

§180-a. Temporary questioning of persons in public places; search for weapons.

1. A police officer may stop any person abroad in a public place whom he reasonably suspects is committing, has committed or is about to commit a felony or any of the crimes specified in section five hundred fifty-two of this chapter, and may demand of him his name, address and an explanation of his actions.

2. When a police officer has stopped a person for questioning pursuant to this section and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon. If the police officer finds such a weapon or any other thing the possession of which may constitute a crime, he may take and keep it until the completion of the questioning, at which time he shall either return it, if lawfully possessed, or arrest such person.

A. GENERAL PRINCIPLES:

1. The new law does not permit an officer to stop just any passer-by and search him, nor does it allow the search of any person merely because he has a criminal record.

2. The new law does not permit the stopping and searching of any person found in the vicinity of a crime scene, merely because he happens to be there.

3. The new law does not dispense with the need for adequate observation and investigation, depending upon all the circumstances, before a stop is made.

4. No officer should stop anyone, under the new law, unless he is prepared to explain, with particularity, his reasons for stopping such person.

5. No officer should stop anyone, under the new law, unless the crime he reasonably suspects is a felony or one of those misdemeanors listed in §552 of the Code of Criminal Procedure.

6. When a person is stopped under the new law, the officer—if not in uniform—must properly and promptly identify himself to the person stopped.

7. Not everyone stopped may be searched; searches are only permitted when the officer reasonably suspects that he is in danger.

8. The right to stop provided in the new law in no way changes the previously existing authority of an officer to make an arrest without an arrest warrant, as provided by §177 of the Code of Criminal Procedure. The new rights to stop and to search, as defined in the new statute, are separate and distinct from the established right to arrest, as provided by existing law, and to make a complete search incident to such arrest.

9. Whether or not an arrest follows a stopping under the new law, whenever any force is used in stopping the suspect, or whenever any frisk or search is made, a written report shall be made to the officer's superior officer. Form for such reports, together with instructions for their use, will be distributed with separate orders.

B. THE RIGHT TO "STOP."

1. "stop":

The new statute gives the officer the right to stop a person under the indicated circumstances. If the sus-

pect refuses to stop, the officer may use reasonable force, but only by use of his body, arms and legs. He may not make use of a weapon or nightstick in any fashion. (Of course, if there is an assault on the officer or other circumstances sufficient to justify an arrest, the officer may use necessary force to effect that arrest.)

2. "abroad in a public place":

- a. For the purposes of practical enforcement procedures, this phrase is viewed as being restricted to public highways and streets, beaches and parks (to include outdoor facilities open to the public even though privately owned), depots, stations, and public transportation facilities.
- b. For the purpose of practical enforcement procedures, this phrase is viewed as not including the public portions of private buildings such as hotel lobbies, moving picture theatres, licensed premises, etc.
- c. Definitions of the words "public place" as found in other laws, such as those dealing with disorderly conduct, are not to be substituted for the strict definition of "abroad in a public place" as outlined above.

3. "whom he reasonably suspects":

- a. The words "reasonably suspects" are not to be lightly regarded; they are not just an incidental phrase; they have real meaning. "Reasonable suspicion" is clearly more than "mere suspicion."

At the same time it is something less than "reasonable ground for believing" that a crime is being committed, as is necessary for an arrest.

- b. No precise definition of "reasonably suspects" can be provided, other than that it is such a combination of factors as would merit the sound and objective suspicions of a properly alert law enforcement officer, performing his sworn duties. Among the factors to be considered in determining whether or not there is "reasonable suspicion" are:

- i. The demeanor of the suspect.
- ii. The gait and manner of the suspect.
- iii. Any knowledge the officer may have of the suspect's background or character.
- iv. Whether the suspect is carrying anything, and what he is carrying.
- v. The manner in which the suspect is dressed, including bulges in clothing—when considered in light of all of the other factors.
- vi. The time of the day or night the suspect is observed.
- vii. Any overheard conversation of the suspect.
- viii. The particular streets and areas involved.
- ix. Any information received from third persons, whether they are known or unknown.
- x. Whether the suspect is consorting with others whose conduct is "reasonably suspect."

- xi. The suspect's proximity to known criminal conduct.

(This listing is not meant to be all inclusive.)

- c. "Reasonable suspicion" of any crime at all does not afford a basis for stopping under the new law; there must be reasonable suspicion that the suspect is committing, has committed, or is about to commit either any felony or one of those misdemeanors enumerated in §552 of the Code of Criminal Procedure. (These misdemeanors are weapons crimes, burglar's tools, receiving stolen property, unlawful entry, escape, impairing, carnal abuse, indecent exposure, obscenity and other indecency provisions, sodomy, rape, narcotics, amphetamines and hypodermic needles.) Suspicion of disorderly conduct, an offense, is not for the purpose of practical enforcement procedures a basis for stopping:

C. THE RIGHT TO "QUESTION".

1. No questions are to be asked until the officer has, either by being in uniform or by showing his shield and stating he is a police officer, identified himself.

2. Promptly thereafter, the suspect should be questioned (and frisked, when appropriate) in the immediate area in which he was stopped.

3. Should the suspect refuse to answer the officer's questions; the officer cannot compel an answer and should not attempt to do so. The suspect's refusal to answer shall not be considered as an element by the officer in determining whether or not there is a basis for an arrest.

4. In ascertaining "his name" from the suspect, the officer may request to see verification of his identity, but a person shall not be compelled to produce such verification.

5. If the suspect does answer, and his answers appear to be false or unsatisfactory, the officer may question further. Answers of this nature may serve as an element in determining whether a basis for arrest exists. (But if an officer determines that an answer is "unsatisfactory" and relies upon this in part to sustain his arrest, he should be able to explain with particularity the manner in which it is "unsatisfactory.")

6. If, after he has been stopped and the officer has identified himself, the suspect attempts to flee from the officer, this fact may be an element in determining whether a basis for arrest exists. However, the officer should not resort to the use of a weapon or other extraordinary means to stop the flight unless he has information which now leads him to reasonably believe that the suspect has committed a felony.

D. THE RIGHT TO "SEARCH."

1. Clearly no right to search exists unless there is a right to stop.

2. Nor is a search lawful in every case in which a right to stop exists. A search only justified under the new law when the officer reasonably suspects that he is in danger. This claim is not to be used as a pretext for obtaining evidence. In instances in which evidence is produced as a result of a search, the superior officers, the prosecutors, and—it is anticipated—the courts, will scrutinize particularly

closely all the circumstances relied upon for justifying the stopping and searching.

3. No search is appropriate unless the officer "reasonably suspects that he is in danger." Among the factors that may be considered in determining whether to search are:

- a. Nature of the suspected crime, and whether it involved the use of a weapon or violence.
- b. The presence or absence of assistance to the officer, and the number of suspects being stopped.
- c. The time of the day or night.
- d. Prior knowledge of the suspects' record and reputation.
- e. The sex of the suspect.
- f. The demeanor and seeming agility of the suspect, and whether his clothes so bulge as to be indicative of concealed weapons.

(This listing is not meant to be all inclusive.)

4: Initially, once the determination has been made that the officer may be in danger, all that is necessary is a frisk—an external feeling of clothing—such as would reveal a weapon of immediate danger to the officer.

5. A search of the suspect's clothing and pockets should not be made unless something is felt by this frisk—such as a hard object that feels as if it may be a weapon. In such event, the officer may search that portion of the suspect's clothing to uncover the article that was felt.

6. If the suspect is carrying an object such as a handbag, suitcase, sack, etc. which may conceal a weapon, the officer should not open that item, but should see that it is placed out of reach of the suspect so that its presence will not represent any immediate danger to the officer.

E. AN EXAMPLE:

An example may help to illustrate. Assume that a mugging has just occurred. The officer questions the victim. She says that her pocketbook was taken and she gives a description of the suspect stating, among other things, that he is about six feet tall and was wearing a brown leather windbreaker. While the victim is receiving medical treatment, the officer starts a search of the area. He sees a man hurrying down a dark street. The man's hand is clutching at a bulge under his brown windbreaker, and he glances back at the officer repeatedly. The suspect meets the description of the perpetrator except for one discrepancy: he is only five feet tall.

The officer does not have reasonable grounds to arrest the suspect for his description is clearly inconsistent with the victim's estimate of the perpetrator's height. However, from the officer's experience he realizes that victims of crime, in an excited condition, often give descriptions which are not correct in every detail. Although he lacks reasonable grounds to make an arrest, from all of the circumstances the officer "reasonably suspects" that the man he has spotted has committed the crime. Under the new law, the officer may stop this person, and may ask for his identification and an explanation of his actions. And because the crime involved violence and the suspect's windbreaker seems to conceal unnatural bulges, a frisk may be in order.

[Remainder of circular concerns another statute.]

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C

T. O. P. 238

POLICE DEPARTMENT
CITY OF NEW YORK

July 8, 1964

TO ALL COMMANDS:

Subject: NEW FORM U.F. 250 (REPORT OF STOPPING BY FORCE OR STOPPING ACCOMPANIED BY FRISK) WHEN AND HOW PREPARED.

1. Circular No. 25, c.s., subdivision A, paragraph 9, directs that a written report be made to an officer's superior whenever, under the new stop and frisk law, any force is used in stopping a suspect, or whenever any frisk or search of the suspect is made. Accordingly, Form U.F. 250 (Report of Stopping By Force or Stopping Accompanied by Frisk) is hereby established.

2. An initial supply of new Form U.F. 250 is presently being distributed to all commands to meet immediate needs. Commanding officers concerned shall cause these blank forms to be furnished to all members of their commands and shall arrange for the maintenance of a reserve supply in accordance with the needs of the command. A second distribution will be made as soon as additional printed supplies become available.

3. Form U.F. 250 shall be prepared in duplicate by a member of the force *each* time he stops a person under the authority of the law *AND* the stopping is done by the use of force *OR* the person stopped is either frisked or frisked and searched.

4. Form U.F. 250 shall be prepared for *EACH PERSON* so stopped.

5. The member concerned shall immediately inform the desk officer of the precinct of occurrence of the facts concerning a stopping by force, etc., and submit completed Form U.F. 250 in duplicate to the desk officer of such patrol precinct.

6. In patrol precincts, a file of Forms U.F. 250 so submitted shall be maintained at the desk, available for ready reference by commanding officers, supervisory officers and members of the Detective Division concerned.

7. Commanding and Supervisory officers concerned shall frequently examine Forms U. F. 250 submitted and on file so that they may issue appropriate orders and instructions as may be required.

8. The desk officer to whom completed Forms U.F. 250 are submitted shall examine and sign them and, after taking whatever immediate action is necessary, he shall bring them to the attention of his commanding officer.

9. Duplicate copy of Form U.F. 250 shall be forwarded daily with morning report to the Statistical and Records Bureau. If the member concerned is not assigned to the patrol precinct, a triplicate copy of the report shall be prepared and forwarded to his commanding officer through department mail.

10. Each Form U.F. 250 shall be serially numbered in the upper right corner over the caption "Pct" beginning with serial #1 each year.

11. In patrol precincts, the Unit Training Officer, and in other commands, a superior designated by the commanding officer, shall be *specifically responsible* for reviewing each Form U.F. 250 submitted and where, in his judgment, it is required he shall hold a critique with the member of the force concerned. With the approval of his commanding officer, a training officer shall, if his study of reports submitted indicates the need therefor, further instruct the entire command in the manner of exercising the legal authority outlined in Circular No. 25 c.s.

12. Members of the force required to maintain a memorandum book shall enter therein the details pertaining to each exercise of authority granted under the new statute. (See 3/26.0-78.0 of the Rules and Procedures).

13. Every member of the force shall be thoroughly familiar with the provisions of this law (See Cir. 25, c.s.) and the procedures for its implementation. Instructions received from the designated training officer shall be carefully followed.

BY DIRECTION OF THE ACTING POLICE COMMISSIONER.

LAWRENCE J. McKEARNEY
Chief Inspector

TIME	and DATE OF STOPPING	PERIOD OF OBSERVATION PRIOR TO STOPPING	LOCATION	PCT.	POST	KIND OF PUBLIC PLACE
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FACTORS WHICH CAUSED OFFICER TO REASONABLY SUSPECT PERSON STOPPED (Include information from third persons and their identity, if known)

CRIME SUSPECTED	* How Long was Person Stopped		REMARKS BY PERSON STOPPED	
OFFICER IN UNIFORM	<input type="checkbox"/> YES <input type="checkbox"/> NO	IF NO, HOW IDENTIFIED <input type="checkbox"/> SHIELD <input type="checkbox"/> I.D. CARD <input type="checkbox"/> BOTH	WAS FORCE USED <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE <input type="checkbox"/> YES <input type="checkbox"/> NO
WAS PERSON FRISKED	<input type="checkbox"/> YES <input type="checkbox"/> NO	WAS SEARCH INSIDE CLOTHES MADE <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE WHERE MADE AND BASIS FOR INSIDE SEARCH	
Was Weapon Found	<input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE Was Other Contraband Found <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE <input type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF PERSON STOPPED (if given) and ADDRESS				

DESCRIPTION	SEX	COLOR	AGE	HEIGHT	WEIGHT	HAIR	EYES	BUILD	OTHER (Describe)
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IF PERSON STOPPED IS SUBSEQUENTLY ARRESTED, INCLUDE ADDITIONAL FACTORS WHICH LED TO ARREST

CRIME CHARGED	CONTRABAND FOUND IN POST-ARREST SEARCH	COURT IN WHICH CASE PENDING
RANK	SIGNATURE OF REPORTING OFFICER	SHIELD
	COMMAND	RANK
	SIGNATURE OF SUPERIOR OFFICER	COMMAND

REPORT OF STOPPING BY FORCE OR STOPPING ACCOMPANIED BY FRISK

A18

D

UTM-5-66

TELECAST TOPIC: "STOP AND FRISK"

STATION: W.N.Y.C.—Channel 31 (U.H.F.)

TIME: 4:00 to 4:30 P.M., May 2, 1966
through May 27, 1966, exclusive
of Saturdays and Sundays.

OBJECTIVE:

1. To re-instruct members of the force in the provisions of the "stop and frisk" statute.
2. To insure the cautious, judicious application of the law and related procedures.

SCOPE:

Limited to the provisions and meaning of terms in section 180-a of the Code of Criminal Procedure and the preparation of the U.F. 250 form.

DIGEST OF TELECAST:

- A. Address by the Deputy Commissioner in charge of Legal Matters.
- B. *The "stop and frisk" law:*
 - Provisions
 - Conditions necessary for "stop"
 - Conditions necessary for "frisk"
 - Explanation of terms
- C. *The U.F. 250 form:*
 - When to prepare
 - How to prepare

HINTS FOR INSTRUCTORS:

1. Research precinct records as to activity and use of this law and report.
2. References: Circular 25, s. 1964; T.O.P. 238, s. 1964; Spring 3100, April 1965 and Sept. 1964.
3. Test knowledge with simulated situations and get class participation.

STOP and FRISK.

Two years have elapsed since the "Stop and Frisk" law went into effect. Prior to the effective date of the law, July 1, 1964, every member of the force received training in the fine points of the new statute so that everyone would understand the new powers granted to us, and the limitations placed upon those powers.

The monthly average of U.F. 250's submitted by members of the force since July 1964 shows a gradual decline. This decline seems to indicate that members of the force may be unsure of themselves in the application of the provisions of the law, or possibly, that they are ignoring the provisions of T.O.P. 238 s. 1964 relative to the preparation of form U.F. 250.

For these reasons, this cycle of Unit Training will be devoted to a review of the "Stop and Frisk" law and the preparation of the U.F. 250 form. It must be emphasized that our purpose is not to press a campaign for more use of the law, but rather to re-instruct members of the force in the provisions and the cautious, judicious application of the law and related procedures.

THE "STOP AND FRISK" LAW
(Chapter 86, Laws of 1964)

[Repeats instructions in Circular No. 25, *supra*]

FORM U.F. 250

Circular 25, series 1964 specified that *whether or not* an arrest follows a stopping under the "stop and frisk" law, a written report must be made if certain conditions are present. The department provided a new form which is known as the U.F. 250 (Report of Stopping by Force or Stopping Accompanied by Frisk). The U.F. 250 must be prepared in duplicate and submitted to the desk officer by the officer effecting the "stop" whenever the "stop" involves:

- FORCE — to stop
- a frisk or
- a search

No U.F. 250, then, is needed in a simple "stop" where the one questioned halts as requested and no frisk or search is made.

Where force was used *or* a frisk *or* a search was made, the officer should prepare the form U.F. 250, in duplicate, in the following manner:

- Enter time and date suspect was stopped
- How long did the officer keep the suspect under observation prior to stopping him.

- Enter the location whereat the stop was made and the precinct, post and the kind of public place (Sec. 180a C.C.P. states that we may stop the party "*abroad in a public place*" and this includes any streets, public highways, beaches, parks, stations and so forth).
- The next caption relates to the circumstances that caused the reporting officer to become reasonably suspicious. The suspicion must be that the suspect was committing, had committed or was about to commit a Felony or one of the crimes in 552 of the code.
- What felony or crime in 552 did the officer suspect? Enter under such caption.
- Enter the length of time the suspect was delayed.
- Include any remarks made to the reporting officer.
- Check whether officer was in uniform or not.
- If not in uniform, how did he identify himself? Check whether by shield, L.D. card or both.
- Check the box as to whether or not officer had to use force in stopping person. If "yes" describe briefly, telling what was done or occurred.
- Check whether person was frisked or not and whether a search, inside clothes, was made.
- If a search inside clothes was made, the officer should describe where the search was made, including location of search and part of body or clothing

searched and the reason he suspected he was in danger. (The stop and the search should always be made at the same location)

- Check if a weapon was found. If it was, it should be described briefly.
- The caption re contraband other than weapons should be checked "Yes" or "No" and contraband (forbidden by law) described, if the answer is "yes".
- The name of the person stopped, if obtained, and his address should be entered. (Note: the suspect cannot be compelled to answer if he refuses to do so.)
- The description of the suspect should be entered under the captions sex, color, age, height, weight, hair, eyes, build, and the description of clothing or peculiarities such as tattoos, moustache, etc., entered under "other."
- If the person that was stopped is arrested subsequent to the stop, the officer should spell out the circumstances that led up to the arrest.
- The crime the suspect was charged with, contraband found in the post-arrest search and the court in which the case is pending should be entered.
- Finally, the officer should sign the duplicate report with his rank, signature, shield and command and submit it to the desk officer of such patrol precinct.

So much for the actual preparation of the form U.F. 250 by the officer. It should be remembered that *immediately* after the "stop" the officer concerned should inform the desk officer of the precinct of occurrence concerning a stopping by force, etc. and make necessary memo book entries.

The desk officer to whom completed Forms U.F. 250 are submitted should examine and sign them, *being sure to enter the precinct serial number over the caption "Pct" in the upper right corner.* After taking whatever immediate action is necessary, the desk officer is charged with bringing the report to the attention of his commanding officer.

In patrol precincts, the *Unit Training Officer*, and in other commands, a superior designated by the commanding officer, is *specifically responsible* for reviewing each Form U.F. 250 submitted and where, in his judgment, it is required, he should hold a critique with the members of the force concerned. Further instruction in the manner of exercising this legal authority should be given when study of reports indicates a need therefor.

Summation

This law, Section 180-a of the Code of Criminal Procedure, if properly utilized, can be of considerable aid in safeguarding the community. The alert officer should be cognizant of it as a useful tool of his profession which, if used wisely, can be a definite precedent for legislation which will further broaden police power to cope with lawlessness.

Every member of the force has the responsibility of seeing to it that the power conferred by this statute is used for the purposes for which it was enacted, namely to protect the community while simultaneously protecting and treating fairly all persons in it. There have been no adverse decisions in the almost two years of utilization of the statute, and if the same judicious and responsible police action is taken in the future, with adequate, complete and legible reports submitted, there should be no fear of repercussions. The public and law enforcement will be the beneficiary.

[Included in this training material is a copy of Form U.F. 250, reproduced herein at A17, *supra*.]

A25

E

LESSON PLAN CODE II F 6

SEQ: 035

POLICE DEPARTMENT—CITY OF NEW YORK

RECRUIT TRAINING SCHOOL

LESSON TITLE: SPECIAL CASES OF ARREST—PART 1

SCOPE: STOP & FRISK LAW, detention and taking into custody of children, material witnesses and violations of parole.

OBJECTIVE: To acquaint the recruit with special arrest procedures which are not consistent with the general laws of arrest.

TRAINING AIDS

Chalkboard

Vu-Graph

ISSUE MATERIAL

U.F. 250

Digest (IIF6 & 7)

BIBLIOGRAPHY

Recruit Study Assignment

Cir 25 a64; T.O.P. 238 s64

TOP 224-1 s66

EDITED January, 1967

BY Lt. Salomon

6 Pages

I. INTRODUCTION

50'

- A. Today we will continue with the course of study in arrest procedures. From the previous lessons in this course you have learned the law of arrest, the making of arrests with or without warrants and the lawful use of force. Today we shall discuss some problems in connection with arrests which are not governed by the procedures previously discussed. The special procedures covered in this lesson have been instituted to cope with difficult and unique enforcement problems.

II. BODY

45'

A. "STOP & Frisk" Law

180a C.C.P.
Cir # 25 s 64

1. A police officer
2. May stop any person
 - a. to stop the person the police officer may use reasonable force i.e. arms, legs, body *not* nightstick or weapon
3. abroad in *public* place
 - a. public place includes streets, parks and beaches, depots, stations and public transit facilities. It does *not* include theatres, hotel lobbies, licensed premises

Time Remarks/References

- b. the definition of a public place for purposes of this section is substantially different than in other sections of law
- 4. whom he *reasonably suspects*, is committing, has committed or is about to commit a felony or any crime in 552 C.C.P.
 - a. *Does not include violations in 552 C.C.P.*
- 5. may demand of him his name, address and *an* explanation of his actions
 - a. if officer not in uniform must show shield and state that he is police officer
 - b. cannot compel answers and this failure to answer not basis of arrest
 - c. false or unsatisfactory answers may be in part the basis of an arrest however officer must show the manner in which answer was unsatisfactory
- 6. If police officer reasonably suspects that his life or limb is in danger, he may search such person for a dangerous weapon.

Note: Reasonable suspicion is more than mere suspicion but less than reasonable grounds for arrest

Note: Right to search *only* follows a valid stop. The frisk takes place where questioning began

	Time	Remarks/References
a. exterior frisk is sufficient to reveal any object which would necessitate a full search		
7. If officer finds such a weapon or any other thing the possession of which may constitute a crime he may take and keep it until completion of the questioning at which time he shall either return it, if lawfully possessed, or arrest such person.		
8. a. U.F. 250 must be prepared each time a member of the force stops a person AND the stopping is accomplished by the use of force OR the person stopped is either frisked or frisked and searched. U.F. 250 prepared for each person so stopped.		T.O.P. 238 s 64
b. The member of the force must immediately inform the D.O. of the precinct of occurrence of the facts of such an occurrence and submit U.F. 250 in duplicate (triplicate if not assigned to reporting command).		

F

POLICE DEPARTMENT

CITY OF NEW YORK

Office of the Police Commissioner

New York, March 3, 1967.

CIRCULAR No. 3

1. The following is published for the information and guidance of all concerned.

COURT DECISIONS RE: "THE STOP AND FRISK LAW"

The Fourth Amendment of the Constitution of the United States prohibits unreasonable searches and seizures. This amendment, as construed by the Court, authorizes the search of a person or place; 1. when incidental to lawful arrest; 2. when done pursuant to a valid search warrant; 3. when done with the consent of the person or persons concerned.

The Courts enforce the provisions of this Constitutional Amendment by excluding from use as evidence, anything that is obtained as a result of an "unreasonable search and seizure."

In 1964, the New York State Legislature enacted Section 180-a of the Code of Criminal Procedure, the so-called "Stop and Frisk Law." This section authorizes the temporary questioning of persons in public places and under certain circumstances a search of that person for weapons.

Section 180-a, Code of Criminal Procedure, provides as follows:

"§180-a. Temporary questioning of persons in public places; search for weapons.

"1. A police officer may stop any person abroad in a public place whom he reasonably suspects is committing, has committed or is about to commit a felony or any of the crimes specified in section five hundred fifty-two of this chapter, and may demand of him his name, address and an explanation of his actions.

"2. When a police officer has stopped a person for questioning pursuant to this section and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon. If the police officer finds such a weapon or any other thing the possession of which may constitute a crime, he may take and keep it until the completion of the questioning, at which time he shall either return it, if lawfully possessed, or arrest such person."

In July 1966 the Court of Appeals rejected an attack on the constitutionality of the above cited statute and ruled that the law provided sufficient safeguards which, if properly applied, do not violate the Fourth Amendment's prohibition against "unreasonable searches and seizures." (People v. Peters, 18 NY 2d 238)

In this case a New York City policeman, who lived in the city of Mount Vernon on the sixth floor of an apartment house which was served by an elevator, heard a noise at his door one afternoon, looked through a peephole in the door and saw two men tiptoeing about the hallway. He telephoned the Mount Vernon police, got his gun and returned to the door where he observed the men tiptoeing toward the stairway. He slammed his door and followed them. He apprehended one of them, the defendant, whom he did not recognize as a tenant, on the stairs. The policeman

asked him what he was doing there and defendant claimed he was looking for a girl friend, but refused to identify her because, he said, she was married. Thereupon the policeman, who was not in uniform, frisked defendant for a weapon by tapping his groin pockets and under his arms. He felt something hard which could have been a knife and withdrew from the right pants pocket an unsealed opaque plastic envelope which upon examination was found to contain six picks, two Allen wrenches with the short leg of each filed down to a screwdriver edge and a tension bar. He recognized these as burglar's tools. He took defendant down to the manager's office and turned him and the envelope over to the Mount Vernon police. Following defendant's indictment for possession of burglar's tools (Penal Law, §408), his motions to suppress the seized evidence and dismiss the indictment were properly denied, and then, on his plea of guilty, he was properly convicted.

The Court held the stopping, inquiring and frisking and the resultant seizure were lawful, both under case law (People v. Rivera, 14 NY 2d 441) and under Section 180-a of the Code of Criminal Procedure.

Under Section 180-a of the Code of Criminal Procedure, such stopping, inquiring and frisking do not constitute an arrest. The statutory standard—reasonable suspicion—may be based on facts and circumstances of which a policeman has reasonably trustworthy information and upon his experienced appraisal of the appearance of criminal activity. Finally, before he may arrest the suspect and seize evidence from his person, he must have reasonable or probable cause. On the scale of absolute knowledge, reasonable suspicion is somewhat below probable cause and is equally objective.

Section 180-a of the Code of Criminal Procedure does not authorize "unreasonable searches and seizures" (U. S. Const., 4th Amdt.); indeed, there is not much difference between the statutory standard and the standard used prior to the statute in *People v. Rivera* (supra).

Hallways and stairways of multiple dwellings are public places within the intendment of Section 180-a of the Code of Criminal Procedure.

In a separate case (*People v. Sibron*, 18 NY 2d 603) decided on the same day, the Court of Appeals without writing an opinion, also affirmed a conviction, relying on Section 180-a, CCP, in a case where a police officer, who had defendant under observation for several hours, observed the defendant talking to various persons known to the officer to be narcotics addicts. The officer approached the defendant and said that the defendant knew what the officer was looking for and the defendant then reached into his pocket. The officer put his hand into the defendant's pocket and intercepted his hand and found packets of heroin in the defendant's hand. The officer, by putting his hand into the defendant's pocket was acting reasonably in order to insure his own safety.

Attention is called to the provisions of Circular Order 25, June 26, 1964 which gives detailed instructions as to the implementation of the Stop and Frisk Law. It is clear that if this law is properly applied it can be of great benefit to law enforcement. Abuse of the law, however, may result in adverse decisions which may seriously limit the application of this statute.

Commanding officers are responsible that members of the force are instructed as to the contents of this bulletin.

Legal Bulletin 67-1

HOWARD R. LEARY,
Police Commissioner

II

Use of Stop and Frisk by New York City Police Department, as Reported in 1600 "U.F. 250" Reports

The following data have been compiled from the approximately 1600 "U.F. 250" forms which have been filed with the New York City Police Department between July 1, 1964 (the effective date of Section 180-a of the New York Code of Criminal Procedure) and May 31, 1967. The forms do not cover all instances when the statute has been applied. Police regulations provide that these forms are to be filled out not for every stop, but whenever an officer either stops a person by force,* or frisks a suspect. Moreover, it may be presumed that the form is not filled out every time it is required. This appears to have been especially true during the first two years in which the statute was in effect (A19). Undoubtedly, there were cases when the suspect's silence precluded filling out a form satisfactorily. In addition, many of the responses in the forms are ambiguous, or incomplete. Illustrative cases have been gleaned, however, and described in the brief.

* The "force" permitted in effecting a stop of a suspect who refuses to stop is reasonable force, by use of the hands, body or legs. Use of a weapon or nightstick is forbidden by the instructions (A7-8, A11, A17, A26).

A

**Statistical Summary of Reported Stops Accompanied by
Either Force or Frisk***

	<i>TOTAL</i> <i>(July 1, 1966- May 31, 1967)</i>	<i>1964</i> <i>(6 mo.)</i>	<i>1965</i>	<i>1966</i>	<i>1967</i> <i>(5 mo.)</i>
Persons stopped by force or frisked	1617	195	272	675	475
Persons frisked (includes undetermined number frisked after arrest)	1288	159	218	508	393
Persons stopped by force not frisked	329	36	54	167	182
Persons searched "inside clothes" (includes unde- termined number searched after arrest)	418	90	85	127	116
Persons arrested (booked)	168	50	35	51	32

* This information was supplied by the Legal Bureau of the New York City Police Department, and was compiled from the approximately 1600 "U.F. 250" reports filed as of May 31, 1967 (see A17).

B

Crimes Suspected by Officers*

Crimes included in N. Y. Code Crim. Proc. §180-a:

Grand Larceny (incl. auto), receiving stolen property	437
Burglary, unlawful entry	434
Robbery	359
Weapons	232
Narcotics	194
Felonious assault	84
Rape	31
Other sex offenses	15
Homicide	13
Other	18

Crimes possibly included in §180-a, depending whether a felony was involved:

"Assault"	51
Gambling	24
"Gang fight"	4
Other	8

Crimes or Offenses not included in §180-a:

Malicious mischief	23
Petit larceny	19
Loitering	4
Other	12

* This information was compiled by *amicus curiae*. When a report listed more than one crime suspected, all crimes listed were included in the totals.

Items Disclosed*

Persons frisked (includes undetermined
number frisked after arrest) 1288

Persons searched (includes undetermined
number searched after arrest) 418

<i>Item</i>	<i>Number of persons</i>
Gun	42
Knife—person arrested	28
Knife—no arrest was made	11
Imitation pistol, air pistol**	11
Bullets	4
Blackjack	1
Narcotics	24
Hypo. needle, etc.	11
Stolen goods	18
Burglar's tools	10
Gambling slips	9
Other	26
Total	195

* This information was compiled by *amicus curiae*. While most of the items were found before the suspect was taken into custody, in some instances the material apparently was disclosed by a search incident to arrest, and in others the reports did not make clear when the contraband was found.

** Violation of N. Y. C. Admin. Code §§436.5.0(b), (g), prosecuted by summons.

D

Places Where Stops Occurred*

Street	1204
Residential building**	110
Bar, restaurant, hotel	96
Store	44
Park	41
Bus, subway train or station	35
Amusement or shopping area	15
Alley, lot	15
Railroad station or bus terminal	13
School	6
Office	5
Other	30

* This information was compiled by *amicus curiae*.

** Hallways: 61; unclear from report, probably hallways: 21; lobbys: 11; roof: 9; basement: 4; inside apartment: 2; stairway: 1; fire escape: 1.

E

Times When Stops Occurred*

12 midnight - 3:00 a.m.	346
3:00 - 6:00 a.m.	151
6:00 - 9:00 a.m.	44
9:00 - 12 noon	106
12:00 - 3:00 p.m.	194
3:00 - 6:00 p.m.	170
6:00 - 9:00 p.m.	283
9:00 - 12 midnight	300
Total	1594
6 p.m. - 6 a.m.	1080
6 a.m. - 6 p.m.	514

* This information was compiled by *amicus curiae*.

Stops, Frisks and Recovery of Weapons by Race of Suspect

The following information was compiled by *amicus curiae*. The statistics are merely approximations. The U.F. 250 form has a space for listing the "color" of the person stopped by force or frisked. Unavoidably, the classification by the officers was arbitrary in many instances. The reports listed approximately 942 suspects as Negro and 675 as white, but it was obvious that many in the latter category were Puerto Ricans, a group comprising about 8% of the population of New York City. Therefore, the reports listing the suspects as white were analyzed by *amicus*, and suspects with Spanish names were separated and classified arbitrarily as white Puerto Ricans. It was impossible to determine by race the percentage of persons stopped who are frisked, since the U.F. 250 reports do not include all stops, but merely stops accompanied by force or a frisk.

	Negro	White (excludes Puerto Ricans)	Puerto Rican ("White")
% of N.Y.C. population, 1960			
U. S. census	14.0	77.5	7.9
Stopped by force or frisked	942	463	212
% of all persons stopped by force or frisked	58.2	28.6	13.1
Frisked (includes some post- arrest)	797	302	189
% of all persons frisked	61.1	23.4	14.6
Weapons found (guns and knives)	41*	15**	24†
% of all weapons found	51.3*	18.8**	30.0†
% of persons in this group frisked who had weapons	5.1*	5.0**	12.7†

* Excludes 8 simulated guns.

** Excludes 1 simulated gun.

† Excludes 2 simulated guns.

G

Ages of Suspects*

It has been feared that the authority to stop and frisk leads to discrimination against youths. The same considerations discussed above in the brief as to the race of the suspects apply to the ages of the suspects. The high crime rate among youths [TASK FORCE REPORT: CRIME AND ITS IMPACT—AN ASSESSMENT, pp. 25, 78, 208-210] indicates that minors will be stopped more frequently in proportion to their numbers than adults.

The U.F. 250 forms of the New York City Police Department include a space for the officer to state the suspect's age. This was filled in in most of the reports filed, but it may be concluded that in a large percentage of instances the information was merely an estimate. Comparison of this information with New York City arrest statistics show that about 52% of the arrests for crimes covered by the stop and frisk law were of persons under the age of 25, while this age group accounted for some 55% of the stops or frisks reported (A41). Persons under the age of 21 accounted for 36.6% of the arrests and 36.1% of the U.F. 250 reports. It also appears that the police rarely use the law against younger juveniles; persons under the age of 16 are stopped by force or frisked less frequently, in proportion to the total, than they are arrested, while persons 16 to 20 apparently are stopped by force or frisked relatively more often than they are arrested.

* This information was compiled by *amicus curiae*.

<i>Age reported</i>	<i>Persons</i>	<i>% of total reported</i>
Under 16	60	3.7
16 - 20	515	32.4
21 - 24	312	19.5
25 and older	715	44.2

For comparison, the following chart shows arrests and summonses by age groups for felonies and misdemeanors covered by N.Y. Code Crim. Proc. §180-a, compiled from the Annual Reports of the New York City Police Department, 1964-1966:

<i>Age</i>	<i>Persons</i>	<i>% of total</i>
Under 16	28,188	13.2
16 - 20	50,165	23.4
21 - 24	33,854	15.8
25 and older	101,962	47.2

Killings and Injuries of New York City Police Officers

The statistics reported below show unmistakably the physical dangers facing police officers in the performance of their duties. The bare numbers, however, reveal little specifically as to the reasonableness of a frisk or minimal search for weapons as a protective measure during field interrogation. For this, *amicus* turned to the original data underlying these statistics: the written reports of injuries to police officers, which are prepared whenever an officer is injured in the line of duty, and which are filed with the Personnel Safety Unit, Police Academy, New York City. Not having been prepared for purposes relevant to this brief, the reports are frequently too sketchy to show whether a "stop and frisk" situation was presented; for example, a report dated February 28, 1964, states that an officer was shot during an investigation of an armed robbery of a drugstore while he was "attempting to question" two suspects. Further, the reports do not cover assaults which did not cause injury. However, these reports, collectively, do show the unpredictable dangers to police in field work. Also, in many individual instances they are sufficiently detailed to illustrate the reasonableness of a self-protective frisk or search as an adjunct to on-the-street inquiry. Some illustrative cases are discussed above in the brief.

A

**New York City Police Killed While Apprehending or
Arresting Suspects***

	1960	1961	1962	1963	1964	1965	1966
Shot	1	2	4	4	3	1	1
Stabbed	1	0	0	0	0	0	1

B

**New York City Policemen Injured by Assaults While
Performing Duty (Excluding Deaths)****

	1960	1961	1962	1963	1964	1965	1966	1967 (6 mo.)†
Gunshot	—	9	13	7	10	12	3	15
Cut—stab	—	10	9	14	19	24	26	19
Struck by object	—	51	44	58	90	71	71	66
Bite, punch, kick, struck by vehicle, etc.	—	329	258	270	356	370	264	168
TOTAL	—	399	324	349	475	477	364	268

* Compiled from the Annual Reports of the New York City Police Department.

** Statistics compiled from the Annual Reports of the New York City Police Department. No comparable data prior to 1961.

† Information for 1967 supplied by Personnel Safety Unit, Police Academy.

IV

**Dangerous Weapons Received by Property Clerk of
New York City Police Department***


	<u>1960</u>	<u>1961</u>	<u>1962</u>	<u>1963</u>	<u>1964</u>	<u>1965</u>	<u>1966</u>
Revolvers, pistols	5017	4842	4979	5461	5104	5321	7762
Machine guns	2	1	3	7	10	3	11
Shotguns, rifles	589	569	664	893	971	1057	1063
Other (knives, air rifles, etc.)	3286	3284	4588	4853	5303	5316	5069
TOTAL	8,894	8,696	10,234	11,214	11,388	11,697	13,905

V

New York City Crimes

A

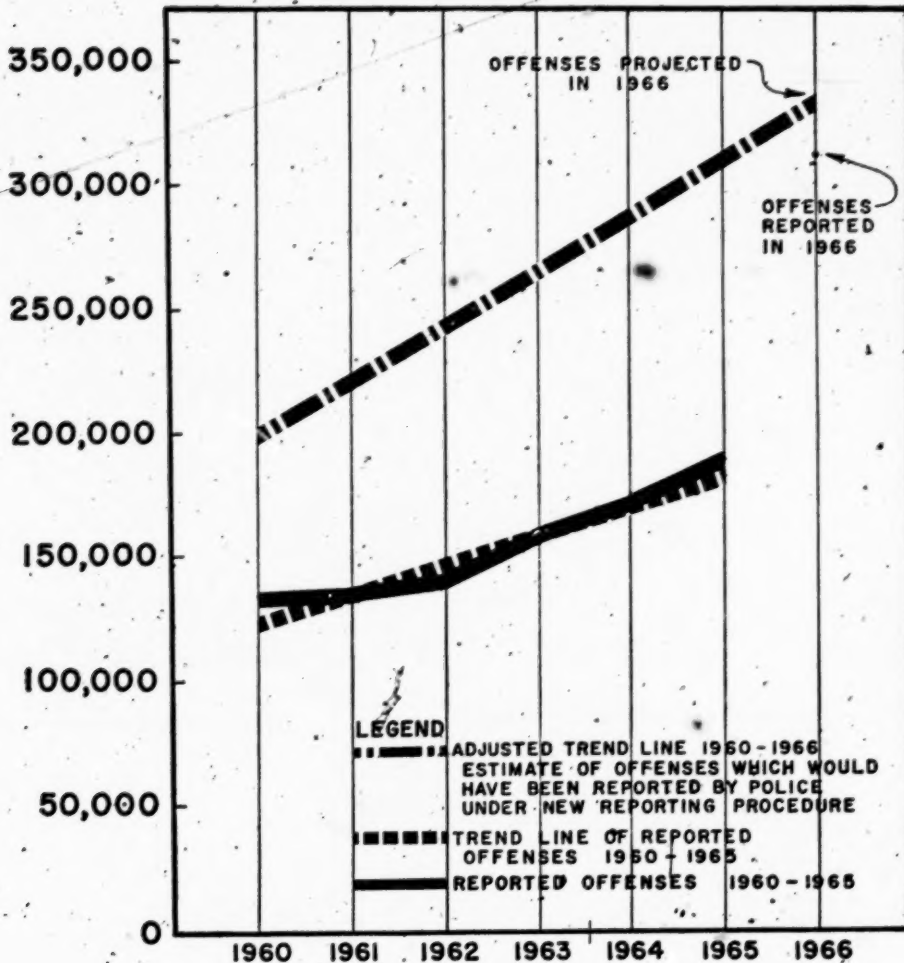
Crimes in New York City Reported to Police Department**

(See Opposite )

* Compiled from the Annual Reports of the New York City Police Department.

** Reproduction of 1966 Annual Report of the New York City Police Department, page 29.

OFFENSES KNOWN TO POLICE ACCORDING TO F.B.I. CRIME INDEX 1960 - 1966



**CHART 1 TOTAL CRIME INDEX OFFENSES KNOWN TO POLICE
UNDER PRESENT AND PREVIOUS CRIME REPORTING PROCEDURES**

**SOURCE: NEW YORK CITY POLICE DEPT., CRIME STATISTICS REPORTED
ANNUALLY TO F.B.I.**

During 1966, the Police Department instituted revised procedures for the reporting, recording and classification of crime. The purpose of this revision is to provide an accurate picture of the total amount of criminality in the city as reported to police. The new procedures brought the department's reporting techniques in line with those recommended by the Federal Bureau of Investigation for local police departments for inclusion in the Uniform Crime Reporting System. Processed by sophisticated, high speed data processing equipment the procedures proved of great value to the department in administrative tasks such as deployment of manpower and equipment.

No valid comparison can be made between crime reported in 1965 and 1966. Percentage increases indicated under the column "Statistical Increase" may not be considered to be actual increases since they represent a comparison between statistics furnished by two different reporting systems.

It was considered desirable, however, to attempt to estimate the "real" increase in crime for 1966. This estimate is based on the premise that if the new procedures had been instituted in 1960 a similar "statistical" increase would have occurred in that year and in succeeding years. Accordingly, a trend line was constructed, using the "Least Squares Function," which is a statistical method widely used by private industry and government agencies. The percentage increase in total major crimes from 1965 to 1966 was then applied to annual points on the trend line to construct an adjusted trend line that would have emerged had the new method of reporting been in effect for the period 1960-1965. The conclusion derived from the application of this statistical method was that there was an estimated 7.2 per cent "real increase" in total felony crime for 1966 and an estimated 6.5 per cent real increase in offenses reported in the Federal Bureau of Investigation Crime Index (See chart 1, above).

B

**Arrests and Summonses in New York City
for Felonies and Misdemeanors
Covered by N.Y. Code Crim. Proc. §180-a***

Total Arrests (Thousands)

<i>1960</i>	<i>1961</i>	<i>1962</i>	<i>1963</i>	<i>1964</i>	<i>1965</i>	<i>1966</i>
47.3	49.4	54.5	58.5	69.6	70.0	74.1

Arrests for Specific Crimes (Thousands)

	<i>1960</i>	<i>1961</i>	<i>1962</i>	<i>1963</i>	<i>1964</i>	<i>1965</i>	<i>1966</i>
Larceny**	8.2	8.3	8.9	10.1	11.6	11.4	12.1
Burglary†	7.8	8.2	8.8	10.0	11.0	10.5	11.0
Robbery	3.8	3.8	4.3	4.5	4.9	5.4	6.1
Weapons	2.3	2.4	2.7	2.4	2.6	2.7	2.3
Narcotics	7.8	6.7	7.9	8.6	13.5	13.9	15.3
Fel. Assault	9.0	9.5	9.7	10.3	12.0	12.5	13.1

* Compiled from the Annual Reports of the New York City Police Department.

** Includes grand larceny, larceny of motor vehicle, receiving stolen property (see A35).

† Includes unlawful entry, burglar's instruments (see A35).

VI

Use of Stop and Frisk by Buffalo Police Department**Statistical Summary of Stops Reported by Plainclothesmen**

In response to an inquiry by the District Attorney of New York County in connection with the preparation of this brief, the Honorable Frank N. Felicetta, Commissioner of Police of Buffalo, New York, the second largest city in the State, submitted statistics as to the application of Section 180-a of the New York Code of Criminal Procedure by the Buffalo Department of Police. We are informed that this information was compiled, in response to our request, at four Divisional Headquarters throughout the City of Buffalo, from the "P-73 daily activity reports" prepared daily by all members of the plainclothes units of the force, about 275 officers.

	<i>Total</i>	<i>1964</i>	<i>1965</i>	<i>1966</i>	<i>1967</i>
Persons stopped	1931	535	464	557	375
Persons frisked (pre-arrest)	553	140	150	151	112
Weapons recovered	80	20	23	28	9
Other contraband found	45	8	15	12	10
Persons arrested	490	147	147	129	91